

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE-OPELOUSAS DIVISION**

Cash, et al

Civil Action No.04-1648

versus

Judge Tucker L. Melançon

Unocal Corp., et al

Magistrate Judge C. Michael Hill

**MEMORANDUM RULING AND JUDGMENT**

Before the Court is an unopposed <sup>1</sup>Motion For Partial Summary Judgment filed by Max Welders, Inc. [Rec. Doc. 122]. This case arises out of personal injuries allegedly sustained by plaintiff, Michael Cash, while he was employed by Shaw Global on its fixed platform located on Ship Shoal Block 209 A on the Outer Continental Shelf. *R. 122-5, Max Welders' Stmt. Of Uncontested Material Facts*. In addition to Michael Cash's claims, his spouse, Penny Cash, seeks damages for loss of consortium as a result of the injuries allegedly sustained by her husband. *R. 1, ¶ XVI*. Max Welder's moves the Court to dismiss the claims of Penny Cash as it is well settled under general maritime law that there is no claim available to a spouse for loss of consortium when an accident occurs outside the state's territorial waters, as in this case. The Court agrees. In *Nichols v. Petroleum Helicopters, Inc*, 17 F.3d 119 (5<sup>th</sup> Cir. 1994), the Fifth Circuit held that general maritime law precluded claims for loss

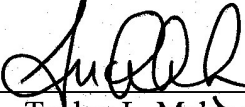
---

<sup>1</sup> The fact that there is no opposition to Max Welding's motion does not necessarily mean it should prevail on the merits. "A motion for summary judgment cannot be granted simply because there is no opposition, even if failure to oppose violated a local rule. The movant has the burden of establishing the absence of a genuine issue of material fact and, unless he has done so, the court may not grant the motion, regardless of whether any response was filed." *Hetzel v. Bethlehem Steel Corp.*, 50 F.3d 360, 362 (5<sup>th</sup> Cir. 1995). However, as previously noted, the failure to file an opposition and statement of contested material facts requires the Court to find Max Welding's Statement of Uncontested Material Facts, *R. 122-5*, admitted for purposes of the instant motion. *L. R. 56.2W*.

of consortium for injuries that occur outside of the state's territorial waters.<sup>2</sup> Accordingly, it is

ORDERED that the unopposed Motion For Partial Summary Judgment filed by Max Welders, Inc.[Rec. Doc. 122] is GRANTED and the claims of Penny Cash are DISMISSED WITH PREJUDICE.

Thus done and signed this 13<sup>th</sup> day of August, 2008 at Lafayette, Louisiana.

  
\_\_\_\_\_  
Tucker L. Melançon  
UNITED STATES DISTRICT JUDGE

---

<sup>2</sup> See also, *Broussard v. Aviara Energy Corp.*, 2005 WL 1473998 W.D.La., 2005 (Melançon, J.)